

REMARKS/ARGUMENTS

Applicant would like to thank the Examiner for the careful consideration given the present application. The application has been carefully reviewed in light of the Office Action, and amended as deemed appropriate to place the application into condition for allowance.

Specifically, by this Amendment, claims 16-29 have been amended, claims 18 and 20 have been canceled and new claims 30 and 31 have been added to the application to round out applicant's claim coverage. Accordingly, claims 16, 17, 19 and 21-31 are pending in the application. Claims 19-21, 23-25 and 27 were withdrawn from consideration in the prior Office Action as being directed to non-elected species. No new matter has been added.

In the prior Office Action, the Examiner rejected claims 16 and 18 under 35 U.S.C. §102(a) as being anticipated by Robertson (U.S. Pat. 6,581,760). Claim 18 has been canceled rendering the prior rejection thereof moot. In view of the amendments made to claim 16, reconsideration of the claim rejection is respectfully requested.

Robertson discloses a container for holding objects such as eye glasses. Robertson teaches that the outer surface of the container is designed to provide a sufficient friction force when in a user's pocket or when in contact with a surface such as a car dash or boat deck to prevent the container from sliding out of the user's pocket or from sliding along or falling off the surface. As noted by the Examiner, at col. 5, line 65 to col. 6, line 12, Robertson teaches that "glow-in-the-dark" type ink or coloring can be applied to form logos, text or images on the container, that the entire surface of the container can be coated with such ink or coloring, or that the container can be made, at least in part, from plastic or other materials that glow or emit light.

Claim 16, as amended, requires that the container body be made of transparent material and that the container further include a backing plate that is provided with a luminous surface. The container according to Robertson does not include a plate having a luminous surface (applicant notes that stiffener member 140 in the container according to Robertson is not taught as having a luminous surface). Thus, claim 16 is clearly not anticipated by Robertson.

Also in the prior Office Action, the Examiner rejected claims 16, 18, 25, 28 and 29 under 35 U.S.C. §102(a) as being unpatentable over Beck (U.S. Pat. 5,149,568). As noted above, claim 18 has been canceled thereby rendering the prior rejection thereof moot. In view of the amendments made to claims 16, 25, 28 and 29 herein, reconsideration of the claim rejections is respectfully requested.

Beck discloses glow in the dark artwork. The artwork comprises (from front to back) a pane of glass 24, a mat 22, an image 16, a luminous sheet 18, a board 20 and a paper backer 30. In the prior Office Action, the Examiner characterized the term "glasses case" in claim 18 broadly such that it encompassed the pane of glass 24 in the artwork according to Beck. To differentiate Beck, claim 16 has been amended to clarify that the container body is adapted to contain "spectacles" (also known as eyeglasses). Inasmuch as the glow in the dark artwork according to Beck is not adapted to contain spectacles, Beck clearly does not anticipate claim 16. Claims 25, 28 and 29 further differentiate the present invention from the glow in the dark artwork according to Beck.

Also in the prior Office Action, the Examiner rejected claim 17 under 35 U.S.C. §103(a) as being unpatentable over Robertson in view of Strauss et al. (U.S. Pat. 5,249,675) and in further view of Beck. Robertson and Beck have been described above. Strauss et al. disclose a packaging arrangement for an eyewear article comprising a tag portion 12 and a portion 14 made of transparent plastic that encloses the eyewear article. The tag portion 12 includes a lens 18 that has an optical power equal to that of the eyewear article beneath the enclosure 14. Thus, a prospective purchaser of the eyewear article can test the lens 18 without handling the eyewear article.

In the prior Office Action, the Examiner characterized the tubular container provided with a stiffening member according to Robertson as a wallet. The Examiner further reasoned that one having ordinary skill in the art at the time of applicant's invention would have been motivated by Beck to include a backing plate in the container according to Robertson and would also have been motivated by Strauss et al. to make the container according to Robertson out of transparent material. Applicant respectfully submits that the Examiner's combination of references is improper.

Robertson and Beck are in completely different fields of endeavor. Robertson is directed to a container, while Beck is directed to glow in the dark artwork, especially those produced from graphics art film. Beck does not teach that the artwork frame can or should contain any object other than an image. Thus, there is nothing that would have motivated one having ordinary skill in the art to modify the container according to Robertson to include a luminous backing plate. Furthermore, it is also difficult to appreciate why a person having ordinary skill in the art would have found any motivation in Strauss et al. to modify Robertson, absent the hindsight provided by applicant's specification. Strauss et al. utilizes transparent material so that a prospective purchaser can view the eyeglasses enclosed thereunder during lighted conditions. There is nothing in Strauss et al. that would suggest the use of transparent materials in the dark. In the dark, the entire invention according to Strauss et al. would not function because a prospective purchaser could not view the eyeglasses enclosed beneath the transparent enclosure and could not view through the lens. Making the container according to Robertson transparent would permit viewing of the contents of the container during lighted conditions. But in that instance, one having ordinary skill in the art would simply utilize the express teachings of Robertson and use a glow-in-the-dark ink to apply a logo, text or other image to the transparent material from which the container was formed. Robertson teaches that the container itself can be luminous to facilitate location of the container in the dark. Robertson does not teach that a backing plate should be luminous to permit identification of an object contained within the container in the dark. For these reasons, the rejection of claim 17 is improper and should be withdrawn.

Also in the prior Office Action, the Examiner rejected claim 22 under 35 U.S.C. §103(a) as being unpatentable over Robertson in view of Strauss et al. Claim 22 depends from claim 16 and specifies that the container body is formed of a transparent plastic. Strauss et al. does teach that spectacles can be enclosed by transparent plastic. But neither Strauss et al. nor Robertson disclose a backing plate provided with a luminous surface. Accordingly, the combination of Robertson and Strauss et al. fails to achieve a *prima facie* case of obviousness with respect to claim 22. Reconsideration is thus respectfully requested.

Finally, in the prior Office Action, the Examiner rejected claim 26 under 35 U.S.C. §103(a) as being unpatentable over Beck in view of Patton et al. (U.S. Pat. 6,071,855). As noted above, Beck discloses glow in the dark artwork. Patton et al. discloses a medium having a phosphorescent material, which can be processed through a digital printer to produce glow in the dark images. The medium includes transparent plastic layers 16 and 18, which cover the phosphorescent material 14, which is applied to a paper support 12. The Examiner contends that Patton et al. teaches a transparent backing plate. This is clearly not the case, inasmuch as the paper layer 12 would perform the function of a backing plate, and paper is not transparent. Applicant notes that claim 26 depends from claim 16, which specifies that the container body is adapted to contain spectacles. Neither the artwork according to Beck nor the printing medium according to Patton et al. could possibly function as a container for spectacles. Reconsideration is thus respectfully requested.

In light of the foregoing, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in a condition for allowance, the Examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

If there are any additional fees resulting from this communication, please charge the same to Deposit Account No. 18-0160, Order No. AAT-16540.

Respectfully submitted,

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